

NOT FOR PUBLICATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

LUIS A. L.,

Petitioner,

v.

JEFFERSON B. SESSIONS III, *et al.*,

Respondents.

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Civil Action No. 18-17173 (JMV)

MEMORANDUM ORDER

IT APPEARING THAT:

1. On September 18, 2018, Petitioner, an immigration detainee held in Hudson County Correctional Center in Kearny, New Jersey (“HCCC”), filed a petition in the United States District Court for the Southern District of New York (the “Southern District”) under 28 U.S.C. § 2241 (the “Petition”), challenging his detention by United States Immigration and Customs Enforcement (“ICE”) since January 26, 2018. (ECF No. 1.)

2. On October 1, 2018, United States District Judge Valerie Caproni of the Southern District ordered the Respondents named in Petitioner’s habeas pleading to file a response to the Petition. (ECF No. 3.)

3. On October 26, 2018, those Respondents filed a motion arguing, *inter alia*, that the appropriate venue for this matter is the District of New Jersey, and not the Southern District, because Petitioner is being detained at a facility located within the District of New Jersey, *i.e.*, HCCC. (*See* ECF No. 8.)

4. On December 5, 2018, Judge Caproni transferred Petitioner’s action to this Court. (*See* Dec. 12, 2018 Order Granting Mot. to Transfer Venue, ECF No. 11.) In so doing, Judge

Caproni found that “the [sole] proper [R]espondent to [the Petition] is the warden of [HCCC because that is] where Petitioner is physically detained. . . . [and the Southern District] does not have jurisdiction over the warden.” (*Id.* at 5.)

5. The Court is required to preliminarily review § 2241 habeas petitions under Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 through Rule 1(b), and determine whether it “plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief.” Pursuant to this Rule, the Court is “authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.” *McFarland v. Scott*, 512 U.S. 849, 856 (1994). This Court has independently examined the Petition in accordance with Rule 4 and concludes that summary dismissal of the Petition is not appropriate.

IT IS, therefore, on this 14th day of December, 2018,

ORDERED that Respondents Jefferson B. Sessions III, Matthew Whitaker, Thomas Decker, Kirstjen Nielsen, and U.S. Department of Homeland Security are dismissed with prejudice. The sole proper respondent in a petition brought under 28 U.S.C. § 2241 is the warden of the facility where the detainee is currently being held, *i.e.*, Ronald P. Edwards. *See Rumsfeld v. Padilla*, 542 U.S. 426, 436 (2004); *Yi v. Maugans*, 24 F.3d 500, 507 (3d Cir. 1994); and it is further; and it is further

ORDERED that the Clerk of the Court shall add “Ronald P. Edwards, Director of Hudson County Correctional Center” as a Respondent; and it is further

ORDERED that the Clerk shall serve a copy of this Memorandum Order on Petitioner’s counsel of record via CM/ECF; and it is further

ORDERED that the Clerk shall serve copies of the Petition (at ECF No. 1) and this Memorandum Order upon Respondent by regular mail, with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk shall forward a copy of the Petition (at ECF No. 1) and this Memorandum Order to the Civil Division Chief of the United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that, within forty-five (45) days after the date of entry of this Memorandum Order, Respondent shall electronically file an answer to the Petition; and it is further

ORDERED that Petitioner may file and serve a reply within thirty (30) days after the answer is filed; and it is further

ORDERED that within seven (7) days of Petitioner's release, by parole or otherwise, as well as any change in the basis for Petitioner's immigration detention, Respondent shall electronically file a written notice of the same with the Clerk of the Court.

s/ John Michael Vazquez
JOHN MICHAEL VAZQUEZ
United States District Judge